

² 5 U.S.C. § 8101 *et seq.*

ISSUE

The issue is whether appellant has met her burden of proof to establish acute stress disorder and generalized anxiety disorder causally related to the accepted March 17, 2016 employment incident.

FACTUAL HISTORY

On May 11, 2016 appellant, then a 53-year-old regular rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on March 17, 2016 a motorcycle driver lost control and was catapulted onto her truck. She alleged that she sustained situational anxiety and acute stress disorder due to the traumatic event. On the reverse side of the claim form, appellant's supervisor checked a box marked "yes" indicating that appellant was in the performance of duty when injured.³ The supervisor further indicated that the injury was caused by a third party, and noted that her knowledge of the facts about the injury agreed with the statements of the employee and or witnesses.

OWCP subsequently received an April 14, 2016 attending physician's report (Form CA-20) from Rebecca Hartzog, a nurse practitioner. Ms. Hartzog noted that appellant had situational anxiety disorder, not otherwise specified, poor appetite, flashbacks of motor vehicle accident, anhedonia, fear of driving, and riding in a car.

By development letter dated May 17, 2016, OWCP informed appellant that the evidence submitted was insufficient to establish her claim. It advised her of the type of evidence needed and requested that she complete a questionnaire describing the incident. OWCP afforded her 30 days to submit the requested evidence.

In a May 31, 2016 response to the development questionnaire, appellant explained that the injury was reported to her supervisor at the time of the injury. She noted that she was delivering mail when a man on a motorcycle lost control and was ejected onto her truck and was killed. Appellant exclaimed that it was a "horrible sight." She noted that the immediate results were that she could not drive; that she was very upset; that she could not sleep and that she saw a doctor regarding the trauma. Appellant denied having any other injuries on or off duty between the date of the injury and the date it was first reported to her supervisor. She also denied having similar symptoms before the injury.

In a March 17, 2016 Columbia, Mississippi police department report, the officer noted that he was dispatched to the scene of a two-vehicle collision involving a motorcycle. He advised that the driver of the motorcycle was lying in the middle of the road, unconscious and not breathing.

In a June 6, 2016 report, Dr. Beverly Bryant, a Board-certified psychiatrist, noted that appellant had been under her care since March 31, 2016. She explained that a psychiatric evaluation was conducted and appellant was diagnosed with acute stress disorder and generalized anxiety disorder. Dr. Bryant opined that acute stress disorder was the result of a recent traumatic

³ The employing establishment indicated that appellant stopped work on October 17, 2016; however, this appears to be a typographical error as the form was filed on May 11, 2016.

event. She related that appellant indicated that she could no longer drive a vehicle and that she was being treated with medication for severe anxiety and melatonin for insomnia. Dr. Bryant indicated that appellant continued to have severe anxiety when riding in a vehicle and could not drive. She explained that she was unsure how long this would be an issue and she was continuing to receive treatment once every two weeks until she was able to drive again. Dr. Bryant completed a duty status report advising that appellant was unable to work and filled in that she was unable to drive due to anxiety.

By decision dated June 21, 2016, OWCP denied appellant's claim, finding that she failed to establish that the March 17, 2016 injury occurred, as alleged.

On July 5, 2016 appellant requested a telephonic hearing, which was held before an OWCP hearing representative on January 26, 2017. She explained that she reported the claimed incident to her supervisor within minutes of its occurrence. Appellant further noted that she was in shock and not aware that elements of the incident would linger indefinitely.

During the hearing, appellant explained that a hailstorm "came out of nowhere." She described the incident of being in her vehicle on March 17, 2016, and getting ready to deliver a package when she turned into a driveway and heard a thump. Appellant subsequently discovered a motorcycle spinning in circles, sliding down the road. She explained that she discovered a man lying in the road "and the hail was beating him to death and there was blood coming out of his mouth." Appellant then called 911 for emergency assistance.

By decision dated March 6, 2017, OWCP's hearing representative modified the prior decision to find that appellant had established that the March 17, 2016 incident occurred as alleged as she provided a sufficiently descriptive account of the incident. However, the claim remained denied as the evidence of record was insufficient to establish a diagnosed medical condition causally related to the accepted March 17, 2017 incident.

LEGAL PRECEDENT

A claimant seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, including that an injury was sustained in the performance of duty as alleged, and that any specific condition or disability claimed is causally related to the employment injury.⁴

To determine if an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.⁵ The second component is whether the employment incident caused a personal

⁴ 20 C.F.R. § 10.115(e), (f); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

⁵ *Elaine Pendleton*, 40 ECAB 1143 (1989).

injury.⁶ An employee may establish that an injury occurred in the performance of duty as alleged, but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the injury.⁷

To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence sufficient to establish such causal relationship.⁸ The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.⁹

ANALYSIS

The Board finds that the evidence of record is insufficient to establish causal relationship between the diagnosed medical conditions and the accepted March 17, 2016 employment incident.

In support of her claim, appellant submitted a June 6, 2016 report from Dr. Bryant, who noted that appellant had been under her care since March 31, 2016. Dr. Bryant conducted a psychiatric evaluation and diagnosed acute stress disorder and generalized anxiety disorder as a result of a recent traumatic event. She advised that appellant indicated that she could no longer drive a vehicle. Dr. Bryant also noted that appellant was being treated with medication for severe anxiety and also received treatment for insomnia. She explained that appellant continued to have severe anxiety when riding in a vehicle and could not drive. Dr. Bryant noted that she was unsure how long this would be an issue and appellant was continuing to receive treatment once every two weeks until she was able to drive again. She completed a duty status report advising that appellant was unable to work and unable to drive due to anxiety. However, Dr. Bryant did not explain how

⁶ *John J. Carlone*, 41 ECAB 354 (1989). Causal relationship is a medical question that generally requires rationalized medical opinion evidence to resolve the issue. *Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s). *Id.*

⁷ *James Mack*, 43 ECAB 321 (1991).

⁸ See 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

⁹ *K.V.*, Docket No. 18-0723 (issued November 9, 2018); *supra* note 7.

the March 16, 2017 motor vehicle accident caused or contributed to appellant's acute stress disorder and generalized anxiety disorder. Her report is, therefore, of limited probative value.¹⁰

Appellant also submitted an April 14, 2016 attending physician's report (Form CA-20) from a nurse practitioner. However, health care providers such as nurses, acupuncturists, physician assistants, and physical therapists are not considered physicians under FECA. Thus, their opinions do not constitute medical evidence and are of no probative value on the issue of causal relationship.¹¹

Because the medical reports submitted by appellant do not adequately address how the March 17, 2016 employment incident either caused or aggravated acute stress disorder and generalized anxiety disorder, these reports are insufficient to establish entitlement under FECA.¹² Accordingly, appellant has failed to meet her burden of proof to establish a traumatic injury claim.

On appeal, counsel contends that the June 6, 2016 report of Dr. Bryant establishes that appellant's diagnosed conditions were causally related to the March 17, 2016 employment incident. However, as explained above, Dr. Bryant did not provide an opinion on causal relationship supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant failed to establish that her diagnosed acute stress disorder and generalized anxiety disorder conditions are causally related to the accepted March 17, 2016 employment incident.

¹⁰ *Victor J. Woodhams, supra* note 6.

¹¹ *See David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA); 5 U.S.C. § 8101(2) (this subsection defines a physician as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law); *S.J.*, Docket No. 17-0783, n.2 (issued April 9, 2018) (nurse practitioners are not considered physicians under FECA).

¹² *See Linda I. Sprague*, 48 ECAB 386, 389-90 (1997).

ORDER

IT IS HEREBY ORDERED THAT the March 6, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 13, 2018
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board